

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JASON E. CARR,

Plaintiff,

vs.

PROGRESS RAIL SERVICES, *et al.*,

Defendants.

Case No.: 2:19-cv-01558-GMN-EJY

ORDER

By notice entered September 23, 2020, the U.S. Court of Appeals for the Ninth Circuit referred this matter to the District Court for the limited purpose of determining whether *in forma pauperis* status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3); *see also Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of *in forma pauperis* status appropriate where the District Court finds the appeal to be frivolous).

Plaintiff appeals the Court's Order granting Motions to Dismiss, (ECF Nos. 14, 18, 26), based on Plaintiff's failure to respond, and following an analysis of the applicable *Ghazali* factors. As stated in the Court's previous order, Plaintiff's deadline to respond to Defendant Progress Rail's Motion to Dismiss the Amended Complaint, (ECF No. 14), was January 31, 2020. Plaintiff's deadline to respond to Defendant Progress Rail's Motion to Dismiss the Second Amended Complaint, (ECF No. 18), was February 19, 2020. Further, Plaintiff's deadline to respond to Defendant Eastridge's Motion to Dismiss the Complaints, (ECF No. 26), was March 26, 2020. "The failure of an opposing party to file points and authorities in response to any motion . . . constitutes a consent to the granting of the motion." D. Nev. LR 7-2(d). Here, the Motions remained pending on the Court's docket through August 2020. At no point in time did Plaintiff respond to the Motions to Dismiss or seek an extension of the

1 response deadlines. Accordingly, the record clearly shows that Plaintiff's appeal lacks any
2 legal or factual basis.

3 **IT IS THEREFORE ORDERED** that the Court certifies that Plaintiff's appeal is
4 frivolous pursuant to 28 U.S.C. § 1915(a)(3). Plaintiff's *in forma pauperis* status is revoked for
5 purposes of this appeal.

6 **DATED** this 24 day of September, 2020.

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Gloria M. Navarro, District Judge
United States District Court